

## **REMARKS**

Claims 1-46 are now pending in the application. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

### **REJECTION UNDER 35 U.S.C. § 103**

Claims 1-45 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Torma (U.S. Pat. No. 5,365,425) in view of Lockwood (U.S. Pat. No. 5,845,254). This rejection is respectfully traversed.

Torma discloses a method for assessing military treatment facilities that involves delineating the cost of care per patient, which is adjusted for case complexity, severity of the illness, and quality measurements including surveys of patient's perception of quality. The assessment allows for comparing military medical costs on a per patient basis with similar costs in civilian hospitals or other military treatment facilities. Torma further discloses that where a clinic is performing below average and only two physicians are the cause, then actions can be implemented to change the practice patterns of the two physicians. (See Torma, column 7 lines 43-45, column 9 lines 39-46, can column 12 lines 36-41)

Lockwood discloses a method for objectively monitoring and assessing health care providers by regularly evaluating the costs expended in each condition typically treated by the providers, benchmarked by evaluating the severity or complexity of the cases and quality of care, to identify those providers that performed inefficiently from a cost standpoint in treating a select condition. Lockwood further discloses that in instances of budgetary overruns in treating selected conditions, the administrator may

take corrective action by instructing the providers to improve the quality or efficiency of their performance. (See Lockwood, column 13, lines 5-11 and lines 30-39).

While the above patents both disclose methods for determining a provider's average cost per service episode or condition as compared to an average or benchmark cost per service, based in part on the measured quality or patient satisfaction, these methods merely evaluate and identify provider efficiency and inefficiency as a tool for effecting change in practice patterns. Neither Torma nor Lockwood teach or suggest compensating a provider by sharing a portion of cost savings resulting from a reduction in cost per service, as an incentive for providing more efficient services. As such, the present claims drawn to an incentive method of compensating providers by sharing a portion of cost savings is not anticipated, and are allowable for at least these reasons.

Furthermore, claim 18 recites a method in which the portion of savings shared with the health service provider group depends upon the group's performance on a quality and/or patient satisfaction indicator. Neither Torma nor Lockwood teach or suggest a method for motivating health service providers that includes sharing a portion of cost savings in service episodes, which portion is based upon the group's performance on a quality and/or patient satisfaction indicator. As such, claim 18 is further allowable for at least these reasons given above.

#### **NEW CLAIM**

New claim 46 has been added to claim the additional feature of distributing information on an average cost per service episode to the health service provider, for motivating the health service provider to more efficiently manage service episodes to

keep their cost per service episode below the predetermined budgeted average. This feature is disclosed in paragraph 52 of the present published application.

Applicants have included payment for 1 additional claim in connection with this filing. If there is ever any other fee deficiency or overpayment under 37 C.F.R. §1.16 or 1.17 in connection with this patent application, the Commissioner is hereby authorized to charge such deficiency or overpayment to Deposit Account No. **08-0750**.

### CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (314) 726-7500.

Respectfully submitted,

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